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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/604,780	08/15/2003	Jesse J. Williams	71189-1501	1779

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EXAMINER	
DOUYON, LORNA M	
ART UNIT	**PAPER NUMBER**
1751	

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	04/17/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No.	Applicant(s)	
	10/604,780	WILLIAMS ET AL.	
	Examiner	Art Unit	
	Lorna M. Douyon	1751	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *11 January 2007*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-49,51,52,54-59 and 87-114* is/are pending in the application.

4a) Of the above claim(s) *1-48,87-93 and 100-114* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *49,51,52,54-59 and 94-99* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date *9/21/06*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on January 11, 2007 has been entered.

2. Claims 1-49, 51-52, 54-59, 87-114 are pending. Claims 50, 53, 60-86 have been cancelled. Claims 1-48, 87-93 and 100-114 are withdrawn from consideration.

3. The rejection of claim 98 under 35 U.S.C. 112, second paragraph is withdrawn in view of Applicants' amendment.

4. All previous prior art rejections are withdrawn.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

6. Claims 49, 51, 52, 54, 96-97 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wilkins et al. (US Patent No. 5,215,675) hereinafter "Wilkins" in view of Gross et al. (US Patent No. 6,824,623), hereinafter "Gross".

Wilkins teaches an environmentally safe, water soluble stripping composition, for stripping organic coatings such as paints and resins from substrates, which contains a solution of water, a water soluble ester and an amount of hydrogen peroxide, which peroxide concentration is not in excess of 30 wt% of the water/ester composition (see abstract), and which is non-corrosive to metal surfaces (see col. 1, lines 61-62). The water used in the composition is deionized water (see Table 1 under cols. 5-6). The peroxide can be present as an aqueous solution of hydrogen peroxide (see col. 2, lines 21-22). The composition can be used to remove any resinous coating from a substrate and can be applied by spraying, dipping, brushing, wiping on the coating of a plastic, glass, wood or metal surface (see col. 2, lines 28-33). To minimize corrosion of metal surfaces, certain corrosion inhibitors in an amount from 0.1 to about 3 wt% may also be included (see col. 3, lines 39-45). Other additive components like stabilizing agents can also be included into the composition (see col. 5, lines 29-32) and surfactants (see col. 2, line 54+) which also read on the anti-soil protectant. Corrosion test was performed on stripping compositions J, K, and M, wherein composition J, K and M comprise 32.5, 30.0 wt% H_2O_2 (20 vol% aqueous) and 0% H_2O_2, respectively (see Table 1, last line under cols. 5-6), wherein the test was conducted by saturating filter papers with the respective stripping compositions and inserting them between two bare aluminum alloy

panels (type 2024) and subjected to a series of exposure cycles which was repeated for a period of 7 days after which the corrosion of the adjacent aluminum panels was evaluated against a control which consisted of a filter paper saturated with deionized water between the aluminum panels, and the meet specifications, the stripping composition must not exceed the corrosion of the control (see col. 7, lines 51-68). The results showed that Compositions J and K which contain H_2O_2 did not exceed the corrosion of the control (see col. 8, lines 10-15). Wilkins, however, fails to disclose a pressure chamber containing the stripping composition wherein the pressure chamber has an inner surface formed wholly from uncoated aluminum.

In an analogous art of stripping paint, Gross teaches that the cleaning or stripping composition can be packaged in a variety of containers such as steel, tin and aluminum cans and the compositions can be applied by spraying such as in aerosol form (see col. 5, lines 46-55).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to package the stripping composition of Wilkins in aerosol cans made from aluminum because Wilkins specifically desires the composition to be sprayed onto substrates and Gross teaches spraying stripping compositions by using an aerosol can made from aluminum.

7. Claims 55-56 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wilkins in view of Gross as applied to the above claims, and further in view of Hart et al. (US Patent No. 3,970,584), hereinafter “Hart”.

Wilkins and Gross teach the features as described above. However, the combination of reference fails to specifically disclose a dip tube being made of a thermoplastic material such as an olefin polymer.

Hart teaches a similar package wherein the dip tube is made from polyethylene (see col. 5, line 38).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have utilized a dip tube made from polyethylene because it is shown from Hart that dip tubes of said material is common in a similar package.

8. Claim 57 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wilkins in view of Gross as applied to the above claims, and further in view of Miles (US Patent 3,722,753).

Wilkins and Gross teach the features as described above. However, the combination of reference fails to specifically disclose the valve made of nylon.

Miles teaches a similar package wherein the valve is made of nylon (see col. 3, lines 65-67).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have utilized a valve made of nylon in the container of Wilkins and Gross because it is shown by Miles that said material is useful as a valve in a similar package.

9. Claims 58-59 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wilkins, Gross and Miles as applied to claim 57 above, and further in view of Barger et al. (US Patent No. 5,421,492), hereinafter "Barger '492".

Wilkins, Gross and Miles teach the features as described above. However, the combination of reference fails to specifically disclose the valve containing a spring that is made from stainless steel and the diameter of the orifice.

Barger '492 teaches a similar package wherein the valve containing a spring is made of stainless steel (see col. 5, lines 34-50), and a dispensing passage 19 (see Figures 3 and 4).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have utilized a spring made of stainless steel in the container of Wikins, Gross and Miles because, not only is a stainless steel spring in the valve a common material used in similar package as shown by Barger '492, but also, said material is resistant to corrosion. With respect to the diameter of the dispensing passage, it would have been obvious to one of ordinary skill in the art at the time the invention was made to optimize the diameter of the orifice through routine experimentation for best results. As to optimization results, a patent will not be granted based upon the optimization of result effective variables when the optimization is obtained through routine experimentation unless there is a showing of unexpected results which properly rebuts the prima *facie* case of obviousness. See In re *Boesch, 617* F.2d 272,276,205 USPQ 215,219 (CCPA 1980). See also *In re Woodrufl* 919 F.2d

1575, 1578, 16 USPQ2d 1934, 1936-37 (Fed. *Cir.* 1990), and *In re Aller,* 220 F2d 454,456,105 USPQ 233,235 (CCPA 1955).

10. Claim 94 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wilkins, Gross and Hart as applied to claim 55 above, and further in view of Barger et al. (US Patent No. 5,921,447), hereinafter "Barger '447".

Wilkins, Gross and Hart teach the features as described above. However, the combination of reference fails to specifically disclose the gasket made of ethylene propylene diene terpolymer.

Barger '447 teaches a similar package wherein the gasket is made of ethylene propylene diene (see col. 10, lines 46-48).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have utilized a gasket made of ethylene propylene diene terpolymer in the container of Wikins, Gross and Hart because it is shown by Barger '447 that said material is useful as a gasket in a similar package.

11. Claim 95 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wikins in view of Gross as applied to the above claims, and further in view of Spitzer et al. (US Patent No. 3,970,219), hereinafter "Spitzer".

Wilkins and Gross teach the features as described above. However, the combination of reference fails to specifically disclose a container made of anodized aluminum.

Spitzer teaches a similar package wherein the container is made of anodized aluminum (see col. 6, lines 21-24).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have utilized a container made of anodized aluminum because it is shown from Spitzer that containers of said material is common in a similar package.

12. Claims 98-99 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wilkins in view of Gross as applied to the above claims, and further in view of Lauwers et al. (US Patent No. 6,021,926), hereinafter "Lauwers".

Wilkins and Gross teach the features as described above. Wilkins and Gross, however, fail to disclose the specific propellant and the pressure of the chamber.

Lauwers, an analogous art, teaches an aerosol package which comprises compressed air, carbon dioxide, nitrogen and oxides thereof or mixtures thereof, as the propellants and the pressure inside the container created by the gaseous propellant is preferably at least 5 bar (72.5 psi) at 20°C (see col. 6, lines 32-54).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have selected compressed air or carbon dioxide as the propellant because it is known from Lauwers that these gases are the common propellants used in aerosol packages.

Response to Amendment

13. The three separate declarations under 37 CFR 1.132 filed October 23, 206, January 11, 2007 and January 31, 2007, respectively are insufficient to overcome the rejections based upon the newly cited prior art as discussed above because of the following reasons. The declaration, in particular, the declaration dated January 31, 2007, cited OXYKIC/OxyDeep 2X spot cleaner as containing hydrogen peroxide and propellant, however, the declaration did not provide the actual components in said cleaners to determine whether they are commensurate in scope with the claims or not. It is not clear whether the above cited spot cleaners contain other undisclosed ingredients which may be responsible for the alleged packaging success in the unlined aluminum can. In addition, the declaration is not commensurate in scope with the claims because the alleged success was due, at least in part, with hydrogen peroxide, and not any other peroxide composition as required in independent claim 49. With respect to the success in sales of said product, it is not seen in the declaration whether such success was due to the ingredients of the formulation, or only because of marketing strategies.

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lorna M. Douyon whose telephone number is 571-272-1313. The examiner can normally be reached on Mondays-Fridays 8:00AM-4:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Douglas McGinty can be reached on 571-272-1029. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Lorna M. Douyon
Primary Examiner
Art Unit 1751